

## SUBCHAPTER B—COPYRIGHT ROYALTY BOARD RULES AND PROCEDURES

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AUTHORITY: 17 U.S.C. 803.

SOURCE: 70 FR 30905, May 31, 2005, unless otherwise noted.

#### § 350.1 Scope.

This subchapter governs procedures generally applicable to proceedings before the Copyright Royalty Board in making determinations and adjustments pursuant to the Copyright Act, 17 U.S.C. 801(b).

#### § 350.2 Representation.

Parties in proceedings before the Board may represent themselves or be represented by an attorney. The appearance of an attorney on behalf of any party constitutes a representation that the attorney is a member of the bar, in one or more states, in good standing.

#### § 350.3 Caption required.

All pleadings and documents filed in a proceeding before the Copyright Royalty Board must be identified in a caption that identifies the proceeding by caption and docket number.

#### § 350.4 Filing and service.

(a) *Filing of pleadings.* The submitting party shall deliver an original and five copies of all filings to the Copyright Royalty Board in accordance with the provisions set forth in § 301.2 of this chapter. In no case shall a party tender any document by facsimile transmission.

(b) *Exhibits.* All exhibits must be included with the pleadings they support. In the case of exhibits whose bulk or whose cost of reproduction would unnecessarily encumber the record or

burden the party, the Board may reduce the number of required copies.

(c) *English language translations.* Each submission that is in a language other than English shall be accompanied by an English-language translation, duly verified under oath to be a true translation. Any other party to the proceeding may, in response, submit its own English-language translation, similarly verified.

(d) *Affidavits.* The testimony of each witness shall be accompanied by an affidavit or a declaration made pursuant to 28 U.S.C. 1746 supporting the testimony.

(e) *Subscription and verification*—(1) *Parties represented by counsel.* The original of all documents filed by any party represented by counsel shall be signed by at least one attorney of record and shall list the attorney's address and telephone number. Submissions signed by an attorney for a party need not be verified or accompanied by an affidavit. The signature of an attorney constitutes certification that, to the best of his or her knowledge and belief, there is good ground to support the document, and that it has not been interposed for purposes of delay.

(2) *Parties representing themselves.* The original of all documents filed by a party not represented by counsel shall be signed by that party and list that party's address and telephone number. The signature will constitute the party's certification that, to the best of his or her knowledge and belief, there is good ground to support the document, and that it has not been interposed for purposes of delay.

(3) *Verification.* The original of a document that is not signed, or is signed with the intent to defeat the purpose of this section, may be stricken as sham and false, and the matter shall proceed as though the document had not been filed.

(f) *Oppositions and replies.* Oppositions to motions shall be filed within seven business days of the filing of the motion, and replies to oppositions shall be filed within five business days of the filing of the opposition.

(g) *Service list.* The Copyright Royalty Board will compile and distribute, to those parties who have filed a petition to participate that has been accepted by the Board, the official service list of the proceeding. In all filings, a copy shall be served upon counsel of all other parties identified in the service list, or, if the party is unrepresented by counsel, upon the party itself. Proof of service shall accompany the filing. Parties shall notify the Board and all parties of any change in the name or address to which service shall be made.

(h) *Service method.* During the course of a proceeding, each party must serve all motions, objections, oppositions, and replies on the other parties or their counsel by means no slower than overnight express mail on the same day the pleading is filed. If a party is willing to accept service of a document electronically (*i.e.*, by e-mail), followed by a hard copy, first-class mail of the hard copy may be used in lieu of express mail or other expedited delivery.

#### § 350.5 Time.

(a) *Computation.* To compute the due date for filing and serving any document or performing any other act directed by an order of the Copyright Royalty Board or the Board's rules:

(1) Exclude the day of the act, event, or default that begins the period.

(2) Exclude intermediate Saturdays, Sundays, and legal holidays when the period is less than 11 days, unless stated in calendar days.

(3) Include the last day of the period unless it is a Saturday, Sunday, legal holiday, or a day on which the weather or other conditions render the Board's office inaccessible.

(4) As used in this rule, "legal holiday" means New Year's Day, Martin Luther King, Jr.'s Birthday, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, Christmas Day, and any other day declared a holiday by the President or the Congress.

(b) *Extensions.* A party seeking an extension may do so by written motion. An extension motion must state:

(1) The date on which the action or submission is due;

(2) The length of the extension sought;

(3) The date on which the action or submission would be due if the extension were allowed;

(4) The reason or reasons why the delay is unavoidable; and

(5) The justification for the amount of additional time being sought.

#### § 350.6 Construction and waiver.

The regulations of the Copyright Royalty Board are intended to provide efficient and just administrative proceedings and will be construed to advance these purposes. For purposes of an individual proceeding, the provisions of this subchapter may be suspended or waived, in whole or in part, upon a showing of good cause, to the extent allowable by law.

### PART 351—PROCEEDINGS

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AUTHORITY: 17 U.S.C. 803, 805.

SOURCE: 70 FR 30905, May 31, 2005, unless otherwise noted.

#### § 351.1 Initiation of proceedings.

(a) *Notice of commencement; solicitation of petitions to participate.* All proceedings before the Copyright Royalty Board to make determinations and adjustments of reasonable terms and rates of royalty payments, and to authorize the distribution of royalty fees, shall be initiated by publication in the FEDERAL REGISTER of a notice of the initiation of proceedings calling for the filing of petitions to participate in the proceeding.